

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: QWEST CORPORATION	DOCKET NO. TF-02-509
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FINAL ORDER

(Issued April 28, 2003)

PROCEDURAL BACKGROUND

On October 3, 2002, Qwest Corporation (Qwest) filed with the Utilities Board (Board) a proposed tariff reflecting a reduction in Qwest's public access line (PAL) rates consistent with Section 276 of the Telecommunications Act of 1996 (Act) and the Federal Communication Commission's (FCC's) decisions interpreting the Act. Revisions to the proposed tariff were filed on October 24, 2002. The proposed tariff and revisions were identified as Docket No. TF-02-509.

On October 23, 2002, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed an objection to Qwest's tariff filing. Consumer Advocate's objection raised four issues: 1) whether Qwest is allowed to decrease only certain rates or must Qwest reduce every basic communications service (BCS) rate; 2) whether Qwest can use the reduction in business line revenues as an offset against the required decrease of its price plan; 3) whether the calculation of the reduction in revenues due to new prices for PAL rates is correct; and 4) whether the

reduction in PAL rates is considered an exogenous factor pursuant to Qwest's price plan.

On October 30, 2002, the Board issued an order suspending the implementation of the proposed PAL rates, docketing Qwest's proposed tariff for further investigation, and establishing a procedural schedule. On October 31, 2002, Qwest filed an application for reconsideration of the Board's October 30, 2002, order. In its application for reconsideration, Qwest asked the Board to reconsider the suspension of the proposed rates and allow those rates to become effective on November 7, 2002, as originally proposed. Qwest stated that a reconsideration of the rate suspension by the Board would not affect the legal or factual issues that are to be addressed during the investigation of Docket No. TF-02-509.

On November 6, 2002, the Board issued an order granting Qwest's application for reconsideration and allowed the proposed rates to become effective on November 7, 2002. The Board's November 6, 2002, order preserved the established procedural schedule. Qwest filed direct testimony on December 4, 2002, and Consumer Advocate had the opportunity to file direct testimony on or before January 13, 2003, but elected not to do so. A hearing was scheduled for February 11, 2003.

On January 24, 2003, the parties filed a joint motion for alternative procedure. The parties stated that the first issue raised by Consumer Advocate's objection may be resolved by the ongoing judicial review proceeding identified as Iowa Supreme

Court Docket No. 02-0720. Consumer Advocate withdrew its second objection. With respect to the two remaining issues, the parties stated that they believe these issues can be determined on the basis of briefs submitted by the parties. The parties requested that in lieu of a record created at an evidentiary hearing, the remaining issues should be presented to the Board on a record consisting of Qwest's pre-filed testimony as submitted on December 4, 2002, and Qwest's responses to Consumer Advocate's Data Requests Nos. 01-002 and 01-003, which Consumer Advocate submitted on February 13, 2003. On February 5, 2003, the Board issued an order granting the parties' request to cancel the evidentiary hearing and establishing a modified briefing schedule.

ISSUES TO BE DETERMINED

1. Whether Qwest's calculation of the reduction in revenues due to new prices for PAL rates is correct.

Qwest asserts that it used the same methodology to calculate its reduction in revenues due to the new prices for PAL rates as it used in prior price plan adjustments. Qwest states that it used the most currently available usage data (as measured by line quantities) multiplied by the rate reduction. Qwest also states that this method has been previously utilized in calculating the impact of other revisions to Qwest's rates.

Consumer Advocate asserts that Qwest's revenue calculation likely overstates the amount that Qwest's revenues will decrease due to the reduction in PAL rates.

Consumer Advocate states that the record indicates the total number of PAL lines is declining and suggests that it is unlikely that Qwest will continue to serve all of the lines it included in the revenue reduction calculation throughout the next plan year.

The underlying record in this case indicates that the reduction in PAL rates more than offsets the decrease required by Qwest's price plan, regardless of the point in time used to determine the line quantities. The Board notes that Qwest has not submitted a specific proposal regarding a proposed increase in certain BCS rates. Moreover, the issue of whether any potential rate increase or decrease must be applied to all BCS rates, rather than specific rates, is still pending before the Iowa Supreme Court. Therefore, the Board finds that a decision regarding any future increase of BCS rates as a result of the reduction in PAL revenues should be deferred until the Supreme Court issues a ruling in Supreme Court Docket No. 02-0720, and Qwest files a specific proposal with the Board.

2. Whether the reduction in PAL rates is considered an exogenous factor pursuant to Qwest's price plan.

Qwest asserts that the FCC's requirement to reduce PAL rates constitutes an exogenous factor as described in Section III.G of Qwest's price plan, thereby allowing Qwest to make appropriate compensatory adjustments in BCS rates.

Consumer Advocate argues that to apply its discretion to authorize rate changes due to exogenous factors, the Board must consider factors including, but not limited to, which rates are to be adjusted, the amount of the adjustment, and how changes in revenues may be offset by changes in expenses and investments.

Consumer Advocates asserts that these factors should be considered simultaneously with a specific proposal for reflecting exogenous changes in revenues, expenses, and investments in basic and non-basic rates.

The Board agrees with Consumer Advocate with respect to this issue. Qwest requests the Board determine that the PAL rates revision constitutes an exogenous factor for purposes of the first price plan, but Qwest has not provided the Board with information regarding the rates Qwest believes are appropriate to change or when it might be appropriate to change them.

Qwest's filing at this time does not provide sufficient information to make a determination as to whether the PAL rate reductions should be considered an exogenous factor for purposes of the price plan. Moreover, Qwest has not yet demonstrated a need for an increase to BCS rates to offset the loss of PAL revenues. Qwest's request is incomplete at this time and the Board will defer a determination of whether the PAL revision constitutes an exogenous factor until Qwest files a specific proposal with the Board that includes this cost information.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. Qwest Corporation's reduced public access line rates, implemented November 7, 2002, pursuant to the Board's November 6, 2002, order, are affirmed.
2. The determination of any future increase of Qwest Corporation's basic communication service rates as a result of the reduction in public access line

revenues will be deferred until the Supreme Court issues a ruling in Supreme Court Docket No. 02-0720 and Qwest Corporation files a specific proposal with the Board.

3. Qwest Corporation's request for a Board determination that the public access line revisions constitute an exogenous factor under the price plan is denied as described in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 28th day of April, 2003.